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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,677	12/09/2002	John Wood	6600-17	9301
39207	7590	06/20/2006	EXAMINER	
SACCO & ASSOCIATES, PA P.O. BOX 30999 PALM BEACH GARDENS, FL 33420-0999			WINTER, JOHN M	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/070,677

Applicant(s)

WOOD ET AL.

Examiner

John M. Winter

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National-Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/14/2002, 8/11/2005</u> | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### STATUS

Claims 1-25 have been examined .

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. These claims contain numerous terms which render the claimed material indefinite, the terms contained are "and/or" , "may wish to load" and "confirming desire" these terms impose no limitation upon the claimed invention , additionally claims 10-25 are omnibus claims.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,4,6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiGiorgio (US Patent 6,877,094).

As per claim 4,

DiGiorgio et al. ('094) discloses A process for arranging the lease of capacity on or more smartcards for utilization by an application provider for use in an environment including a plurality of smart cards and terminals, a plurality of host systems each adapted to interact with some or all of the smartcards and terminals. said smartcards and terminals including a multiple application operating system, and a system including at least card software located on said cards. terminal software located on said terminal, control software located on one of more remotely located processing devices, and a database in communication with at least said remotely located processing devices, said database including details of which applications are permitted to be loaded onto which cards and/or terminals. said process including the step of the application provider requesting a search, using a set of user defined criteria, of said database in order to locate terminals and/or smartcards on which the provider wishes to load an application;(Column 4 lines 22-39)

the control software conducting a search and returning a report to the

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application provider(Column 4 lines 33-39)

the application provider confirming his desire to the control software to rent space (Column 9, lines 8-13)

the control software requesting approval from the one or more card and/or terminal owners of the application provider to rent space;(Column 8, lines 56-67)

the card and/or terminal owner sending an approval to the control software: and(Column 8, lines 56-67)

the control software sending a confirmation that the lease has been approved to the application provider.(Column 8, lines 56-67)

Claims 1, 6 and 8 are in parallel with claim 4 and are rejected for at least the same reasons.

#### ***Allowable Subject Matter***

Claims 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

Examiners note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the examiner should be directed to John Winter whose telephone number is (571) 272-6713. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, James Trammell can be reached at (571) 272-6712. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks**

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**Washington, D.C. 20231**

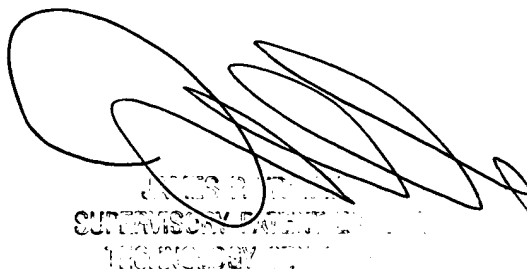
or faxed to:

**(571) 273-8300** Official communications; including After Final communications labeled "Box AF"]

Hand delivered responses should be brought to the Examiner in the Knox Building, 50 Dulany St. Alexandria, VA.

JMW

June 11, 2006



A handwritten signature in black ink is written over a rectangular official stamp. The stamp contains the text "JAMES H. [illegible]" on the top line, "SUPERVISOR" on the second line, and "10/070,677" on the third line. The signature is a cursive, stylized name that appears to be "James H. [illegible]".